

William Harris Esq; Appellant.

George Parker Esq; Respondent.

The Appellants CASE.

TH E Appellant is Lord of the Manor and Hundred of *Lyfton* in *Devon*, and Claims the Goods of all Felons within the same.

That the second of *May* 1693, *Wyke Parker* Brother to the Respondent, Murther'd one *John Thomas*, for which he was Indicted, Tryed and Convicted.

That at the time of such Felony Committed and Conviction, *Wyke Parker* was possessed of a great Personal Estate, and peticularly of two Bonds or Bills wherein the Respondent *Geo. Parker* stood bound to pay the said *Wyke Parker* 7940 l. principal money, which Bonds were within the Appellants Manor and Hundred of *Lyfton* at the time of the Felony Committed, and by the Conviction aforesaid became forfeited.

The single Question is,

Whether this forfeited Estate of *Wyke Parker* belongs to the Appellant the Lord of the Manor and Hundered, or to the Respondent, who Claims the same under a Grant (*pendente lite*) from the Crown; but cannot give one Instance, that the King from the R.ign of King *John* to this time, Seized, or had the Goods of one Felon within this Manor or Hundred: But on the contrary the Appellant and his Ancestors have all along during all that Tract of time, quietly and without Interruption, held and enjoy'd all Felons goods within the same.

Object. It will be Objected by the Respondent, that Felons Goods are no where granted to the Appellant or his Ancestors in exprefs words, and cannot otherwise pass from the Crown, and consequently the right to the Goods of this and all other Felons within the said Manor and Hundered remain in the King, (*Jure Prerogativæ*) whereby the Respondent will have a good Title under the King's Grant.

Ans. To Answer this which is their Chief, if not only Objection; we say, that tho in the Earl of *Westmorlands* Grant of the said Manor and Hundred to the Appellants Ancestors; nor in Qu. *Elizabeth's* Grant of Confirmation in the 43d Year of her Reign subsequent to it, Felons Goods are not granted by exprefs name; yet the Manor and Hundred are by Q. *Eliz.* granted to the Appellants Ancestors with the same Rights, Juridictions, Priviledges, Preheminences, Immunities, Franchises, Liberties, Customs, Profits, Comodities, Emoluments, and Hereditaments whatsoever, and in as full, free, and intire a manner and form as *Henry* then late Earl of *Westmorland*, or any other before that time ever had and enjoyed the said Manor under any Charter, Gift, Concession, or Confirmation of the said Queen, or any her Predecessors, or by reason or under Colour of any Lawful prescription, use or Custom before that time had or used, and in as free, full, and ample manner as the said Queen or any her Predecessors before that time had or enjoyed the same, and in as full and ample manner as the said Manor and Hundred came into, and then were in the hands of the said Queen.

Pursuant to, and under which Grant of Confirmation so made by Queen *Elizabeth*, The Appellant and his Ancestors quietly and without interruption had, and enjoyed the Goods of all Felons happening within the said Manor and Hundred to this time; And not only so, but the Appellant can also make out by Ancient Grants, Inquisitions, Court Rolls, and other sufficient matters of Record as he is advised, that the Earl of *Westmorland* and divers other Lords and Owners of this Manor and Hundred from the time of King *John* down along to the time of Queen *Elizabeth's* Grant of Confirmation had, and enjoyed the Goods of all Felons within this Manor and Hundred; which its humbly hoped will be adjudged a good Title in the Appellant. Felons Goods in those early days passing under other and more general words then the exprefs Grant of *bona Felonum*.

Nevertheless the Court of *Chancery* on hearing the Causes mentioned in the Appeal the 6th of *July* the 10th *Regis* Decreed, that the Appellants Bill brought for discovery of the said Estate, and satisfaction of the Money due on the said Bonds, should not only stand dismiss'd out of the said Court, but did Decree in the Respondents Cause the Appellant to deliver to the said Respondent the said two Bills obligatory, and a Bond due from one *Wood* in the pleadings mention'd to be Cancelled, as also all other the said *Wyke Parkers* personal Estate, Goods and Stock whatsoever, that had since the said Murder committed, or conviction of the same, come to the hands of the Appellant, or any for him, or to his use; And that the said Respondent should hold and enjoy to his own use, the said *Wood's* Bond together with all other the personal Estate of the said *Wyke Parker* against the Defendants, and all claiming or to claim, by, from or under them.

The Appellant is advised, that this being a meer matter of right, he ought not after so long and quiet an Enjoyment to be concluded by the said Decree without a fair Tryal at Law first had, to determine that right, which was not granted on Hearing the Causes in the Court of *Chancery*; but hopes that this Honourable House will see Just grounds to vary and Reverse the said Decree, or otherwise relieve the Appellant as to your Lordships shall seem Just and Meet. The Estate forfeited being near Thirty thousand Pounds value, whereout the Appellant Claims only the said two Bonds, and the Consideration pretended to be paid by the Respondent to the King for the whole Estate forfeited, does not exceed Five thousand Pounds.

Nich. Nicholls.